MONTANA LEGISLATIVE HISTORY

Chapter 359 19 79

Bill H 439 S _____ Original bill & history ✓ C

H. Committee on Local Gov.			S. Committee on Local Gov		
Hearing Date(s)	2-8	✓ C	Hearing Date(s)	_____	____ C
	2-14	✓ C		_____	____ C
	_____	____ C		_____	____ C
	_____	____ C		_____	____ C
Date Out	_____	____ C			

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

CHAPTER NO. 359

HOUSE BILL NO. 439

INTRODUCED BY H. ROBBINS, OBERG, REICHERT, GILLIGAN

IN THE HOUSE

January 27, 1979	Introduced and referred to Committee on Local Government.
February 15, 1979	Committee recommend bill do pass. Report adopted.
February 16, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Local Government.
March 14, 1979	Committee recommend bill be concurred in. Report adopted.
March 15, 1979	Second reading, concurred in.
March 17, 1979	Third reading, concurred in.

IN THE HOUSE

March 19, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 439

INTRODUCED BY H. Robbins Ohs Rice

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE GOVERNING BODY OF A POLITICAL SUBDIVISION WITH A POPULATION OF 10,000 OR LESS TO DISPENSE WITH A NONPARTISAN PRIMARY ELECTION IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 7-5-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-5-302, MCA, is amended to read:

"7-5-302. Nonpartisan primary ballot and election. (1) Except as otherwise provided in this section, a nonpartisan primary election shall be conducted and canvassed and its results returned in the same manner as a partisan primary election.

(2) Ballots in a nonpartisan primary election shall contain only the name of the candidate and the office to which the candidate seeks election.

(3) Electors voting at a nonpartisan primary election may vote for the number of candidates to be elected to each office.

(4) (a) If the number of candidates to be entered on the nonpartisan primary ballot for each office does not exceed twice the number of candidates to be elected for the respective offices, a nonpartisan primary election shall not be held in that year and all candidates entered on the nonpartisan primary ballot shall be considered nominated for their respective offices and shall have their names placed on the nonpartisan general election ballot.

(b) If the number of candidates to be entered on the nonpartisan primary ballot for any particular office does exceed twice the number of persons to be elected to that office, a primary election shall be held for all offices to be voted on at the general election.

(5) Candidates for nomination, equal to twice the number to be elected at the nonpartisan general election for that office, who receive the highest number of votes cast at the nonpartisan primary or nominees determined under subsection (4) are nominees for office and shall have their names entered on the nonpartisan general election ballot.

~~(6) In municipalities with a population of 3,500 or less, a primary election is not required and candidates shall have their names entered on the general election ballot by filing a declaration of nomination not later than 5 p.m. 40 days before the date of the election.~~ In a political subdivision with a population of 10,000 or less, the governing body may determine that a primary need not be held if:

(a) the number of candidates for an office exceeds twice the number to be elected to that office in no more

HB 439

INTRODUCED BILL

than one-half of the offices on the ballot;

(b) the number of candidates in excess of twice the number to be elected is not more than one for any office on the ballot; and

(c) the governing body passes a resolution not more than 7 days after the close of filing by candidates for election stating that a primary election need not be held."

-End-

LOCAL GOVERNMENT COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 404	Amend §7-14-2201, providing that counties are required to maintain only public bridges located in towns or cities on maint. county roads	1/24/79	SALES	Mon. Feb. 19 5pm	DO PASS	2/20/79
HB 423	Extend existing solid waste service to 5 years when area annexed	1/27/79	DONALDSON	Sat. Feb. 10	TABLED	
HB 439	Dispense with nonpartisan primary in areas over 10,000	1/27/79	ROBBINS	Thurs. Feb. 8	DO PASS	2/15/79
HB 467	Increase from $15,000 to $50,000 maximum amount raised by taxation to finance fire control activities	1/29/79	HURWITZ	Sat. Feb. 10	DO PASS	2/19/79
HB 476	To make the office of County Coroner an appointive office, setting minimum qualifications, ...	1/29/79	FABREGA	Sat. Feb. 17 11am	AND AS AMENDED DO PASS	2/19/79
HB 488	Stipulate interest accruing on funds of fire district in unincorporated areas must be credited to account of dist.	2/1/79	H. ROBBINS	Thurs. Feb. 8	DO PASS	2/15/79

HOUSE OF REPRESENTATIVES
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
Thursday, February 8, 1979
12:30 pm

The meeting was called to order at 12:30 pm by Chairman Hershel Robbins. The secretary called the roll and found a quorum of members present, Rep. South was absent.

HOUSE BILL 439: Chairman Robbins introduced the bill and then stated a representative of the Secretary of State's Office would explain the bill and answer questions. It was then explained the bill would allow cities under 10,000 population to dispense with a primary election, and present law now states cities under 3,500 don't have to hold such an election. There are no counties under 10,000 population. This could be done if the number of candidates exceeds twice the number of offices to be elected and the commissioners could then pass a resolution to that effect within 7 days after filing date to announce no primary would be held.

Proponents were called for with Dan Mizner of the League of Cities stating he was in support, that this would be of great help to small cities not having to go to the expense of a primary when there were not many candidates.

There were no opponents to the bill. Rep. Sales inquired as to the limit of 10,000 population, and it was explained that any cities over generally operate under different laws for elections, such as the city-manager type governments and counties would be class "A" which also have different laws. Hearing was then closed on HB 439.

HOUSE BILL 399: Representative Harper of District 30 introduced the bill, stating it is to allow county commissioners to establish coroner's salaries. He stated there had been problems with the bill in the past, that the authority is not in the right place and this would help in that matter.

Proponents were then introduced. Mike Meloy of the Montana Cornoers Association spoke in favor, and that when the salary is attached as part of the sheriff's salary it creates problems. The bill will let commissioners establish a separate salary for coroners.

Mike Stephen, research director of the Montana Assoc. of Counties also spoke in favor. He did have some question on the justice of peace salary and that area of the bill.

PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES
Wednesday, February 14, 1979

The meeting had been set for 5:00 pm or on adjournment for purpose of taking executive action. The meeting was called to order at 7:40 p.m. by Chairman Hershel Robbins upon adjournment of the House of Representatives. The secretary called roll and found a quorum of committee members present, ten members present, others were excused for other meetings.

HOUSE BILL 392: Rep. McBride stated this would clarify the relationship between city-county governments and fire districts. It was then moved by Rep. McBride to amend the bill on page 1, line 20 and 22 to include "consolidated local governments, as well as on line 12. Vote was called and all present voted "aye". Rep. Vinger entered his vote as yes. Motion carried. Rep. McBride then moved to pass as amended on HB 392, vote was called and all present voted "aye" and votes left were read. Motion carried.

HOUSE BILL 399: It was noted this bill would put the coroners under the same salary range on July 1 as other positions. It was then moved by Rep. Donaldson that HB 399 do pass, vote was called and all voted "aye" and motion carried.

HOUSE BILL 439: There was no discussion on this bill allowing dispensing with a primary in areas under 10,000. It was then moved by Rep. Reichert that HB 439 do pass. Vote was called and all present voted "aye", with votes left with committee being read, and Rep. McBride abstaining. Motion carried that HB 439 do pass.

HOUSE BILL 488: This bill would allow interest on fire accounts to be credited to the departments. There was no further discussion and it was moved by Rep. Kemmis that HB 488 do pass. Vote was called, with votes of those absent being read, motion carried with all present voting "aye".

HOUSE BILL 535: It was moved by Rep. Donaldson that this bill be passed for the day and considered later.

HOUSE BILL 559: Rep. Pistoria moved that HB 559 do pass. Rep. Donaldson then stated he didn't like the idea of an automatic fee going to a private association and felt the dues should be paid through the county commission and not automatic. Rep. Oberg stated the bill doesn't show what the dues are and perhaps this should be clarified. There was a short discussion of possible amendment to this fact.

46th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT -- HOUSE BILLS

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 327	2-10	3-6	3-6				3-6		
HB 330	2-13	3-3	3-3					3-3	
HB 341	2-20	3-6	3-6				3-6		
HB 361	2-13	3-6	3-6				3-6		
HB 365	2-10	3-17;3-21	3-21					3-21	
HB 366	2-15	3-23 3-17;3-21	3-23				3-23		
HB 381	2-20	3-15	3-15				3-15		
HB 382	2-17	3-15;3-20 3-21;3-22	3-22					3-22	
HB 387	2-23	taken to	Rules Committee on		3-6				
HB 391	2-23	3-3	3-3				3-3		
HB 392	2-28	3-6	3-6				3-6		
HB 399	2-20	3-8;3-13	3-13				3-13		
HB 439	2-20	3-13	3-13				3-13		
HB 442	2-8	3-8;3-17	3-17					3-17	
HB 476	2-28	3-8;3-13	3-13						3-13
HB 488	2-20	3-8;3-13	3-13				3-13		
HB 490	23	3-13	3-13				3-13		

Representative Baeth made the closing remarks.

CONSIDERATION OF HOUSE BILL 439: In the absence of Representative Hershel Robbins of District 46, chief sponsor of HB 439, Joanne Woodgerd of the Legislative Council, gave a brief resume of the bill. This bill is an act to allow the governing body of a political subdivision with a population of 10,000 or less to dispense with a nonpartisan primary election in certain circumstances. This is an election bill. It makes it so that candidate could go on the general election ballot if the number of candidates to be voted on for a certain office does not exceed twice the number of persons to be elected.

Margaret Davis, of the League of Women Voters, stated perhaps this should be amended for just third class cities because 10,000 population is too large to eliminate primaries even by option. The League supports making HB 439 conform with SB 65.

Dan Mizner, of the League of Cities and Towns, stated there are elections going on right now without candidates. If this bill were passed, perhaps this situation could be corrected.

There were no opponents to this bill. The meeting was then opened to a question and answer period from the Committee.

DISPOSITION OF HOUSE BILL 439: A motion was made by Senator Story that House Bill 439 be given a recommendation of "BE CONCURRED IN" from the Committee. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 488: House Bill 488 is in regard to interest on funds for fire districts. It was pointed out that even though the Committee had already acted on this, it does need some amendments.

A motion was made by Senator Story that the Committee reconsider their actions on HB 488. Motion carried unanimously.

A motion was made by Senator Lockrem to accept the proposed amendments to the bill. (See Committee report attached.) Motion carried unanimously.

A motion was made by Senator Watt that HB 488 receive a recommendation of "And as so amended, BE CONCURRED IN" from the Committee. Motion carried unanimously.

DISPOSITION OF HOUSE JOINT RESOLUTION 14: This resolution is for providing for certain local governments payments based upon the amount of Indian lands within the boundaries of such localities.

Senator Watt pointed out that Indians do not pay taxes.

Senator Rasmussen felt that this was a good bill.

A motion was made by Senator Rasmussen that HJR 14 "BE CONCURRED IN". Motion carried with all present voting yes, except

Exhibit 13

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

STANDING COMMITTEE REPORT

March 13, 19 79

MR. President:

We, your committee on Local Government

having had under consideration House Bill No. 439

H. Robbins (Story)

Respectfully report as follows: That House Bill No. 439

~~DO PASS~~ BE CONCURRED IN

George McCallum Chairman.

STATE PUB. CO.
Helena, Mont.

NAME: Alan Kinnaman DATE: 3-13-79

ADDRESS: Hebron

PHONE: HC 2: 3765

REPRESENTING WHOM? Mut. Interests

APPEARING ON WHICH PROPOSAL: N.B. 439

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Maureen Davis DATE: 13 Jan 79

ADDRESS: 717 Hanover Helena Mont 59601

PHONE: 442-3487

REPRESENTING WHOM? League of Women Voters of Montana

APPEARING ON WHICH PROPOSAL: HB 439

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: 10,000 pop. is too large to eliminate primaries even by option. Reduce the limit to 5,000 or limit set by MCA for 3rd class ~~communities~~ cities. The LWV supports making HB 439 conform with SB65

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL NO. 439

INTRODUCED BY H. ROBBINS, OBERG, REICHERT, GILLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE GOVERNING BODY OF A POLITICAL SUBDIVISION WITH A POPULATION OF 10,000 OR LESS TO DISPENSE WITH A NONPARTISAN PRIMARY ELECTION IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 7-5-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-5-302, MCA, is amended to read:

"7-5-302. Nonpartisan primary ballot and election. (1) Except as otherwise provided in this section, a nonpartisan primary election shall be conducted and canvassed and its results returned in the same manner as a partisan primary election.

(2) Ballots in a nonpartisan primary election shall contain only the name of the candidate and the office to which the candidate seeks election.

(3) Electors voting at a nonpartisan primary election may vote for the number of candidates to be elected to each office.

(4) (a) If the number of candidates to be entered on the nonpartisan primary ballot for each office does not exceed twice the number of candidates to be elected for the respective offices, a nonpartisan primary election shall not be held in that year and all candidates entered on the nonpartisan primary ballot shall be considered nominated for their respective offices and shall have their names placed on the nonpartisan general election ballot.

(b) If the number of candidates to be entered on the nonpartisan primary ballot for any particular office does exceed twice the number of persons to be elected to that office, a primary election shall be held for all offices to be voted on at the general election.

(5) Candidates for nomination, equal to twice the number to be elected at the nonpartisan general election for that office, who receive the highest number of votes cast at the nonpartisan primary or nominees determined under subsection (4) are nominees for office and shall have their names entered on the nonpartisan general election ballot.

~~(6)--In--municipalities--with--a-population-of-3,500-or less,-a-primary-election--is--not--required--and--candidates shall--have--their--names--entered--on--the-general-election ballot-by-filing-a-declaration-of-nomination-not-later--than 5--p.m.--40--days--before--the--date--of--the-election.~~ In a political subdivision with a population of 10,000 or less, the governing body may determine that a primary need not be held if:

(a) the number of candidates for an office exceeds twice the number to be elected to that office in no more

REFERENCE BILL

than one-half of the offices on the ballot;

(b) the number of candidates in excess of twice the number to be elected is not more than one for any office on the ballot; and

(c) the governing body passes a resolution not more than 7 days after the close of filing by candidates for election stating that a primary election need not be held."

-End-